

STATE OF ILLINOIS)
COUNTY OF COOK) SS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN RE APPOINTMENT OF A
SPECIAL STATE'S ATTORNEY

No. 2019 MISC MR 0001

FILED

APR 23 2019

CLERK OF CIRCUIT COURT

RESPONSE TO THE PETITION TO APPOINT A SPECIAL PROSECUTOR

The PEOPLE OF THE STATE OF ILLINOIS, by their attorney, KIMBERLY M. FOXX, State's Attorney of Cook County, Illinois, respectfully respond to the petition seeking the appointment of a special State's Attorney to prosecute the matter of People v. Jedidiah Brown, No. 2018 MC1 20981901. The People state the following in support of their response:

1. Illinois law is clear that a Special Prosecutor can only be appointed over the State's Attorney's objection pursuant to 55 ILCS 5/3-9008 upon the petitioner's demonstration that the State's Attorney "is physically unable to fulfill her duties in this case due to sickness, absence, or otherwise," or that she suffers from an "actual conflict of interest." Farmer v. Cook Cty. State's Attorney's Office (In re Appointment of Special Prosecutor), 2019 IL App (1st) 173173, ¶ 51. No such demonstration has been made in this case.

2. Instead, petitioners claim that a special prosecutor should be appointed due to an "appearance of impropriety" based on allegations that defendant Jedidiah Brown had been a paid employee of Ms. Foxx's campaign for State's Attorney and that therefore they share a political alliance and also that they communicated with one another when they both appeared at a recent Operation Push rally. However, Illinois law is clear that such allegations do not rise to the level of an "actual conflict of interest." See Farmer, 2019 IL App (1st) 173173, ¶ 39. Moreover, State's Attorney Foxx wishes to clarify for the record that Mr. Brown was not a paid employee of her campaign, and also that she was unaware that he had a pending matter when she briefly spoke with him at the rally.

3. Nevertheless, State's Attorney Foxx has elected to recuse herself and her assistants from this matter pursuant to section 3-9008(a-15) of the Counties Code.

That section provides:

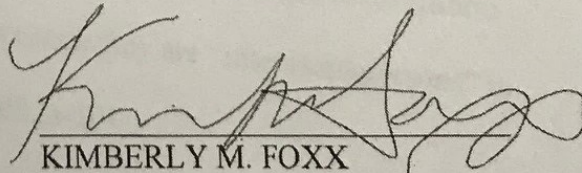
(a-15) Notwithstanding subsections (a-5) and (a-10) of this Section, the State's Attorney may file a petition to recuse himself or herself from a cause or proceeding for any other reason he or she deems appropriate and the court shall appoint a special prosecutor as provided in this Section.

55 ILCS 5/3-9008(a-15)

4. As a result of State's Attorney Foxx's decision to recuse herself and her office, this Court should "contact public agencies, including, but not limited to, the Office of Attorney General, Office of the State's Attorneys Appellate Prosecutor, or local State's Attorney's Offices throughout the State, to determine a public prosecutor's availability to serve as a special prosecutor at no cost to the county and shall appoint a public agency if they are able and willing to accept the appointment." 55 ILCS 5/3-9008(a-20).

5. Once an appointment is made, the Cook County State's Attorney's Office will provide the ~~entire~~ case file to the special prosecutor and will remain available to further assist the Court and the special prosecutor in any way necessary.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Kimberly M. Foxx', is written over a horizontal line.

KIMBERLY M. FOXX
State's Attorney of Cook County